

Article - Education

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§16–311.

(a) (1) Except as provided in paragraph (2) of this subsection, this section applies to every contract for any building, improvement, equipment, or supplies.

(2) This section does not apply to:

(i) The purchase of books or other materials for instruction;

(ii) Emergency repairs;

(iii) Any contract or purchase made by a county for a community college under procedures authorized by the county charter or an act of the General Assembly; or

(iv) Any contract or purchase that qualifies as a “small procurement” as defined in the State Procurement Regulations.

(b) At the discretion of the procurement officer, the following procurement methods are authorized where applicable:

(1) Competitive sealed bids under subsection (c) of this section;

(2) Competitive sealed proposals under § 16–313 of this subtitle;

(3) Sole source procurement under § 16–314 of this subtitle; or

(4) Noncompetitive negotiation under § 16–314.1 of this subtitle.

(c) (1) The board of trustees may provide for procurement by competitive sealed bids in accordance with this subsection.

(2) (i) Whenever procurement is based on competitive sealed bids, the board of trustees, or its designee, shall seek bids by issuing an invitation for bids.

(ii) The board of trustees, at least 2 weeks before bids are to be filed, shall advertise for bids in at least one newspaper published in the county or in

eMaryland Marketplace, in accordance with Title 17, Subtitle 5 of the State Finance and Procurement Article.

(iii) The board of trustees may name in the specifications and advertisements for bids the particular make, kind, or brand of article to be contracted for or purchased.

(3) The board of trustees of each community college may provide for the prequalification of persons as prospective responsible bidders for procurements other than leases of real property.

(4) If a board of trustees uses a prequalification procedure for awarding a procurement contract:

(i) A person who is not prequalified may submit a bid or proposal; and

(ii) After bid opening or receipt of proposals and before awarding the procurement contract, a procurement officer may determine that:

1. A person who was not prequalified at the time of bid opening or receipt of proposals is a responsible bidder; or

2. A prequalified person is not a responsible bidder.

(5) Except as provided in paragraph (7) of this subsection, the contract shall be awarded to the lowest responsible bidder, who conforms to the specifications, with consideration given to:

(i) The quantities involved;

(ii) The time required for delivery;

(iii) The purpose for which required;

(iv) The competence and responsibility of the bidder; and

(v) The ability of the bidder to perform the contract satisfactorily.

(6) The board of trustees may reject any and all bids and readvertise for other bids.

(7) (i) In this paragraph, the term “minority business enterprise” has the meaning stated in § 14–301 of the State Finance and Procurement Article.

(ii) In Montgomery County, by resolution and by implementing rules and regulations, the Board of Trustees of Montgomery Community College shall establish a mandatory minority business utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Board of Trustees of Montgomery Community College in accordance with competitive bidding requirements.

(d) A contract entered into or purchase made in violation of this section is void.

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